

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Adv. Pro. No. 10-04616 (SMB)

NICOLETTE WERNICK NOMINEE
PARTNERSHIP; MARITAL GST EXEMPT
TRUST F/B/O NICOLETTE WERNICK U/
ARTICLE III OF THE HAROLD WERNICK
REVOCABLE TRUST DTD 9/16/1991, in its
capacity as a Partner of the Nicolette Wernick
Nominee Partnership; MARITAL GST NON-
EXEMPT TRUST F/B/O NICOLETTE WERNICK
U/ ARTICLE III OF THE HAROLD WERNICK
REVOCABLE TRUST DTD 9/16/1991, in its
capacity as a Partner of the Nicolette Wernick
Nominee Partnership; M. GORDON EHRLICH, in
his capacity as managing partner of the Nicolette
Wernick Nominee Partnership and as Trustee of the
Marital GST Exempt Trust f/b/o Nicolette Wernick
u/ Article III of the Harold Wernick Revocable
Trust dtd 9/16/1991 and as Trustee of the Marital
GST Non-Exempt Trust f/b/o Nicolette Wernick u/
Article III of the Harold Wernick Revocable Trust
dtd 9/16/1991; NICOLETTE WERNICK,

individual and in her capacity as partner of the Nicolette Wernick Nominee Partnership and as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991; and HOPE WIGMORE, in her capacity as Trustee of the Marital GST Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991 and as Trustee of the Marital GST Non-Exempt Trust f/b/o Nicolette Wernick u/ Article III of the Harold Wernick Revocable Trust dtd 9/16/1991,

Defendants.

**STIPULATION AND ORDER AGREEING TO APPLY DECISION IN
THE OMNIBUS PROCEEDINGS TO THIS ADVERSARY PROCEEDING**

WHEREAS, on November 30, 2010, the plaintiff, Irving H. Picard as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), commenced the above-captioned adversary proceeding in the Bankruptcy Court against defendants Nicolette Wernick Nominee Partnership, Marital GST Exempt Trust F/B/O Nicolette Wernick Revocable Trust DTD 9/16/1991, Marital GST Non-Exempt Trust F/B/O Nicolette Wernick U/Article III of the Harold Wernick Revocable Trust DTD 9/16/1991, M. Gordon Ehrlich and Nicolette Wernick (the “Defendants,” together with the Trustee, the “Parties”) (the “Adversary Proceeding”);

WHEREAS, a hearing was held before the Bankruptcy Court on February 14, 2014 to address the most efficient manner of litigating common legal issues and coordinating common and consolidated discovery in the hundreds of adversary proceedings pending before the Court;

WHEREAS, on February 21, 2014, the Bankruptcy Court entered the Case Management Order Regarding Certain Pending Motions to Dismiss (the “Omnibus Proceedings”);

WHEREAS, on April 17, 2014, Defendants moved to dismiss the Adversary Proceeding pursuant to Federal Rule of Civil Procedure 12(b)(6) made applicable by Rule 7012 of the Federal Rules of Bankruptcy Procedure;

WHEREAS, on June 24, 2014, the issues raised in Defendants’ motion to dismiss, together with the issues raised in the Trustee’s complaint were referred to mediation pursuant to the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order;

WHEREAS, on July 14, 2014, the Parties mutually selected Judge Francis Conrad to act as Mediator in this matter;

WHEREAS, a hearing was held on September 17, 2014 before the Bankruptcy Court to consider the common legal issues in the Omnibus Proceedings;

WHEREAS, the Defendants are neither parties to, nor have joined in the Omnibus Proceedings;

WHEREAS, the Defendants’ motion to dismiss incorporates all the arguments set forth by similarly situated defendants in the Omnibus Proceedings;

WHEREAS, the date hereof, the Court has not yet ruled on the Omnibus Proceedings;

WHEREAS, on November 14, 2014 the mediation concluded with the Parties unable to reach an amicable resolution despite repeated efforts at mediation; and

WHEREAS, the unresolved issues between the Parties are closely analogous to those presently before, and being considered by, the Bankruptcy Court in the Omnibus Proceedings.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned herein, that:

1. Any decision rendered in the Omnibus Proceedings, to the extent it affects the unresolved issues in the Adversary Proceeding, will apply equally to the Adversary Proceeding and such decision will dispose of the motion to dismiss filed herein.
2. To the extent that the decision in the Omnibus Proceedings does not dismiss all claims in the Adversary Proceeding, Defendants shall file an answer to the Trustee's complaint within thirty (30) days of the entry of the Bankruptcy Court's order giving effect to the decision in the Omnibus Proceedings.
3. This Stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall

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be deemed an original.

Dated as of: March 9, 2015

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LLC and the Estate of Bernard L. Madoff*

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the Harold Wernick Revocable Trust dtd
9/16/1991, Marital GST Non-Exempt Trust
FBO Nicolette Wernick U/Article III of the
Harold Wernick Revocable Trust dtd
9/16/1991, and Nicolette Wernick*

SO ORDERED

/s/ STUART M. BERNSTEIN
Hon. Stuart M. Bernstein
United States Bankruptcy Judge

Dated: March 9th, 2015
New York, New York